United Nations S/2002/884

Security Council

Distr.: General
6 August 2002

Original: English

Letter dated 31 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/399).

The Counter-Terrorism Committee has received the attached supplementary report from China, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

02-51983 (E) 160902 170902

Annex

Letter dated 17 July 2002 from the Permanent Representative of China to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to enclose herewith the supplementary report of China, pursuant to paragraph 6 of resolution 1373 (2001) concerning counter-terrorism, as required by your letter of 12 April 2002 (see enclosure).

(*Signed*) **Wang** Yingfan
Ambassador
Permanent Representative of China to the United Nations

Enclosure

[Original: Chinese]

Supplementary report on implementation by China of Security Council resolution 1373 (2001)

Subparagraph 1 (a):

Please explain whether, under existing regulations, it is possible for a non-resident foreigner to hold funds in Chinese financial institutions (including those in the Hong Kong and Macao Special Administrative Regions). If so, is there any remedy under the amended criminal law to prevent the holding of such funds by supporters of terrorism?

China has always strictly implemented all Security Council resolutions on the freezing of assets intended for terrorism.

Under the existing foreign exchange regulations of the central Government, non-resident foreigners in the territory of the People's Republic of China may make deposits in financial institutions operating within the mainland territory of the People's Republic of China; this is a normal transaction for such institutions. In carrying out such transactions, however, financial institutions shall, pursuant to the relevant rules of the People's Bank of China, require depositors to present authentic and valid identification, while banks shall, in accordance with the provisions of the Circular on Large Ash Deposits and Withdrawals of Foreign Exchange by Resident and Non-Resident individuals, check the identification presented by non-resident individuals withdrawing large amounts of cash in foreign currency (amounts exceeding the equivalent of US$ 10,000) for authenticity and record them.

In accordance with provisions promulgated by the central Government, including the Regulations on the Control of Bank Deposits, the Measures for the Management of Bank Accounts, the Provisions on the Administration of Internal Foreign Exchange Accounts and the Provisions on the System of Real Name Savings Accounts, non-residents foreigners may hold funds in financial institutions located in mainland China. For the purposes of a criminal investigation, the procuratorates and the public security organs may, in accordance with the relevant provisions of the Criminal Procedure Law of the People's Republic of China, carry out investigations with respect to the deposits and remittances held by criminal suspects and arrange for their freezing, in order to prevent or stop supporters of terrorism from holding such funds.

Non-resident foreigners may hold funds in financial institutions in Hong Kong. However, the financial supervision and regulatory bodies in Hong Kong require that financial institutions verify the identity of their customers before establishing bank accounts for them. In addition, the supervision and regulation bodies regularly provide financial institutions with lists of terrorists compiled pursuant to the relevant Security Council resolutions or compiled by other financial and public institutions, and request that they check for possible suspicious transactions. Legal entities or individuals having knowledge of or suspicions concerning any assets that are derived from chargeable offences or may be used in or for such offences, must report to the law-enforcement agencies. Such offences need not have been committed in Hong Kong.

The Legislative Council of the Hong Kong Special Administrative Region has adopted the draft United Nations (Anti-Terrorism Measures) Ordinance, which, inter alia, prohibits the provision of funds or financial services to terrorists or terrorist associates.

Non-resident foreigners may hold funds in financial institutions in Macao. The Government of the Macao Special Administrative Region is currently studying ways and means of ensuring that funds are not obtained or utilized, either directly or indirectly, by international terrorists or supporters of international terrorism.

Subparagraph 1 (b):

The report states that articles 107 and 112 of the Criminal Law stipulate that the financing of criminal activities injurious to the security of the State is a criminal offence. The financing from China of terrorist acts committed abroad which injure the security of another State may not be covered by these provisions. Could China please explain whether article 120 of the Criminal Law covers this situation? Do these provisions also prohibit the collection of funds for terrorist purposes? Are there any other relevant provisions covering these requirements?

Amendment III to the Criminal Law of the People's Republic of China added a new paragraph under article 120 which provides that any individual financing terrorist organizations or committing terrorist acts shall be liable to punishment.

Please provide the Committee with a report on the progress and content of the pending legislation reclassifying the financing of terrorism and related activities as criminal offences in the Hong Kong Special Administrative Region. Please also outline the proposed new legislation of the Macao Special Administrative Region authorities to classify financial assistance to terrorist activities as a serious crime.

The United Nations (Anti-Terrorism Measures) Ordinance drafted by the Government of the Hong Kong Special Administrative Region contains provisions relating to the following matters: (i) definition of the terms "terrorists", "terrorist associates", "terrorist assets property" and "terrorist acts"; (ii) determination of who may be classified as a terrorist or terrorist associate and what may be deemed terrorist property; (iii) the freezing of assets that may be used for or diverted to terrorist acts; (iv) establishment of rules for the freezing of other property of terrorists or terrorist associates; (v) prohibition of the provision of funding, financial services and weaponry to terrorists or terrorist associates; (vi) prohibition of the recruitment for, or participation in, terrorist organizations; (vii) mandatory notification of information or suspicion relating to terrorist funds; (viii) punishment of such crimes with monetary fines and imprisonment of up to 14 years.

The Government of the Macao Special Administrative Region is currently studying the question of criminalizing international terrorist acts. At the same time, it is also considering classifying the financing of terrorism as a new, separate category of criminal offence distinct from the criminal charges that already exist in respect of terrorism and terrorist organizations. To explore this question, comparative legal studies will be conducted, with emphasis placed on the relevant provisions of the International Convention for the Suppression of the Financing of Terrorism.

Subparagraph 1 (c):

Do the relevant legal provisions in China (including the Hong Kong and Macao Special Administrative Regions) on the freezing of assets include the freezing of funds or other financial assets and economic resources?

Legislation currently exists in mainland China on the freezing of assets, including the freezing of funds or other financial assets and economic resources. Under article 117 of the Criminal Procedure Law of the People's Republic of China, the procuratorates and the public security organs may, as required by regulations, inquire into and freeze moneys and other illicit proceeds derived from such offences as money-laundering and terrorist crimes. Under article 158 of that Law, the courts, in their investigations to verify evidence, may order inquests, examinations, seizures, expert evaluations as well as inquiries and freezes. Courts have competence to decide, in accordance with the specifics of case, whether to recover, seize or freeze gains and proceeds unlawfully obtained by the accused. The Criminal Law also provides, in article 220, that the courts may confiscate any moneys or proceeds derived from such crimes as money-laundering and terrorism. Relevant provisions can be found in other laws as well, such as the Tax Collection and Administration Law, the Securities Law, the Administrative Supervision Law and the Commercial Bank Law.

Resolutions of the United Nations Security Council on the freezing of assets and funds automatically become part of the local laws of Macao from the date of their publication. Where sufficient and detailed information on their automatic implementation is to be found in the text of those resolutions, asset-freezing orders enter into force automatically; when such information is not to be found, it is also legally possible to take measures to seize the assets in question. Providing or channelling banned funds or assets is defined as a serious crime in Law No. 4/2002, on compliance with certain international legal instruments, promulgated by the Government of the Macao Special Administrative Region on 15 April 2002. By banned funds, the Law means all financial assets targeted by the Security Council sanctions. The Law also provides for the criminal responsibility of the legal persons concerned and sets out the corresponding penalties. Under the Code of Criminal Procedure, judges may order the seizure of any funds or financial assets deposited with financial institutions in the Macao Special Administrative Region that are either linked to crimes or critical to evidence-gathering.

Please provide a report on the progress of the legislation allowing the freezing of all terrorist assets proposed by the Government of the Hong Kong Special Administrative Region.

Both the Organized and Serious Crimes Ordinance and the Drug Trafficking (Recovery of Proceeds) Ordinance of the Hong Kong Special Administrative Region stipulate that if a person is alleged to have committed a designated crime and the authorities have reason to believe that that person has received proceeds from the property derived or obtained from the crime, the authorities may freeze the property in question, including funds, other financial assets and economic resources. Designated crimes include money-laundering and several other crimes relating to terrorist activities. When the court is convinced that the person has received proceeds from such crimes, it may confiscate the relevant property once the accused is convicted.

The United Nations (Anti-Terrorism Measures) Ordinance of the Hong Kong Special Administrative Region provides that the authorities may freeze funds that have been used for, or are intended to be diverted to, the financing of terrorist acts, and that rules and regulations may be developed with a view to freezing other property held by terrorists or terrorist associates.

The Hong Kong Special Administrative Region strictly implements the resolutions of the Security Council on assessment of assets. The United Nations Sanctions (Afghanistan) Regulation prohibits anyone from providing the Taliban or entities that are Taliban-owned or -controlled with funds or other financial resources. The Regulation is to be revised in mid-July 2002, and the scope of the sanctions will be extended to include persons and entities referred to in Security Council resolution 1390 (2002).

Is it possible under existing legal provisions or proposed amendments of existing legislation to freeze, at the request of another country, funds that are linked to terrorist acts and are held in accounts of Chinese financial institutions (including those in the Hong Kong and Macao Special Administrative Regions)?

Please explain whether any of the laws of China (excluding laws applying only in the Hong Kong and Macao Special Administrative Regions) allows the freezing of assets of persons suspected of terrorism in order to enforce orders of courts of another country.

Under China's existing legislation, if the requesting country has concluded an agreement on mutual legal assistance in criminal matters with China or is party to the United Nations International Convention for the Suppression of the Financing of Terrorism, its requests for the freezing of funds held in accounts with Chinese financial institutions and linked to terrorist acts may be carried out in accordance with the provisions of such treaties and agreements.

Under the Mutual Legal Assistance in Criminal Matters Ordinance, Hong Kong may freeze and confiscate funds held by financial institutions based in Hong Kong in order to enforce orders issued in overseas jurisdictions in the following cases: the two sides have concluded a bilateral agreement or undertaken to provide assistance on the basis of the principle of mutual benefit and the relevant order is aimed at recovering proceeds associated with a crime for which the perpetrator, upon conviction, would be liable to a penalty of no less than two years' imprisonment, or at recovering the properties used for, or diverted to, committing such a crime.

Under the existing legislation of the Macao Special Administrative Region, in the absence of any international agreements or conventions on the matter or any specific laws, funds that are linked to terrorist activities may not be frozen when a country so requests.

Subparagraph 1 (d):

Please outline the laws which give effect to this subparagraph.

Are financial institutions and other intermediaries (such as lawyers and notaries) or any other persons or entities required to report suspicious transactions to the public authorities, and if so, what are the penalties attached if such persons omit to report either wilfully or by negligence?

With regard to abnormal and suspicious transactions, China has not yet published any specific standards for identification, nor has it issued any specific requirements for financial institutions and their staff to report suspicious transactions. However, both the Interim Regulations on Cash Management and the Provisions on the Registration and Recording of Large Cash Payments set out clear provisions and requirements in this respect. China is in the process of developing Measures for the Control of Payment Transactions Reporting, which will determine the standards, reporting extent, regulation and supervision of abnormal payment transactions, and require policy-making banks, commercial banks, urban and rural cooperative credit unions, and banks with foreign capital to report suspicious transactions to the People's Bank of China.

China has been encouraging people to report and expose any illegal act. Article 13 of the Tax Collection and Administration Law stipulates that all entities and individuals have the right to report any act that is in breach of applicable tax laws and administrative regulations. The bodies receiving such reports and investigative bodies should keep the informant's identity secret. The tax authorities are to reward informants in accordance with the relevant provisions. Article 8 of the Foreign Exchange Control Regulations provides that all entities and individuals have the right to report and expose any acts and activities that are in breach of foreign exchange controls. The foreign exchange authorities are to reward those who have reported, exposed or contributed to the investigations of suspicious foreign exchange cases and keep their identity secret.

The relevant provisions of the United Nations Sanctions (Afghanistan) Regulations and the United Nations (Anti-Terrorism Measures) Ordinance of the Hong Kong Special Administrative Region have already been mentioned above.

According to the Organized and Serious Crimes Ordinance and the Drug Trafficking (Recovery of Proceeds) Ordinance, any person, including financial institutions, lawyers and other entities, who has knowledge of or suspicion of any transaction-related property that may be used for, or diverted to, the perpetration of a chargeable offence, is obliged to report such a case. Chargeable offences include offences classified as terrorist activities. Any person who breaches this obligation may be punished with three months' imprisonment. The Government is considering extending the period of imprisonment to 12 months. The United Nations (Anti-Terrorism Measures) Ordinance stipulates that all persons must report crimes involving the provision of financing to terrorists, and anyone violating this obligation may be liable to a maximum penalty of HK$ 50,000 and three months' imprisonment.

In the Macao Special Administrative Region, Act No. 24/98/M of 1 June 1998 establishes a regime for reporting suspicious transactions. The Act sets out preventive measures to prevent money-laundering activities, requiring economic participants to inform the Macao Judicial Police of suspicious activities involving

the conversion, diversion or concealment of illegal property or income. Entities having the obligation to make such reports include: (a) all entities under the supervision of the Macao Monetary Authority; (ii) entities under the supervision of the Macao Gambling Inspection and Coordination Bureau; (iii) pawnbrokers; (iv) entities dealing in antiques or works of art, or engaged in the metal or jewellery industries; (v) real estate brokers or entities engaged in the purchasing of immovable property or movable property requiring registration with a view to resale. The authorities concerned will supervise these entities to check whether or not they have fulfilled their reporting obligation. The supervisory authorities concerned should inform the Macao Judicial Police of any cases they suspect of involving money-laundering, even if the indications of such activity are slight. Those who fail to meet their reporting obligation shall be considered to be in violation of administrative laws and are liable to fines of 10,000-500,000 Macao dollars for individuals and 100,000-5 million Macao dollars for legal persons

Although Act No. 24/98/M defines a series of acts that may be used for money-laundering purposes, the Government of the Macao Special Administrative Region is still carefully considering whether the obligation to report the suspected diversion, conversion and concealment of illegal property should be extended to other professionals, such as accountants, auditors, notaries and lawyers. Those who suspect that funds are being used for or are linked to terrorist acts, are being used in order to undertake terrorist activities or being used by terrorist organizations also have an obligation to report.

The Macao Special Administrative Region already has legislation stipulating that Security Council sanctions resolutions must be adhered to. The Government is prepared to criminalize international terrorism and is considering the adoption of legislation that will make it possible to freeze temporarily, and without a court order, funds that are suspected of belonging to terrorists or individuals and entities related to terrorists. Judicial appeal is allowed in such cases. The legal regime governing financial operations management in the Macao Special Administrative Region will also be strengthened pursuant to the eight recommendations on the issue of financing terrorists adopted by the Financial Action Task Force (FATF) of the Organisation for Economic Cooperation and Development (OECD).

Are there any regulations in China (including the Hong Kong and Macao Special Administrative Regions) governing alternative money transfer agencies? Please outline them.

Money transfer agencies operating legally in China are subject to a strict regime of market access and are licensed and placed under the strict supervision of the People's Bank of China. The "underground money dealers" found in some parts of mainland China are illegal entities, and such "alternative money transfer agencies" are not permitted under China's current laws. The Criminal Law of the People's Republic of China and foreign exchange regulations provide the legal basis for combating such illegal entities.

In 1998, the State Council of the People's Republic of China issued Provision for the Suppression of Illegal Financial Institutions and Illegal Financial Business Activities, which clearly provided for the suppression of illegal financial institutions and the punishment of their illegal financial business activities.

Under the Organized and Serious Crimes Ordinance promulgated by the Government of the Hong Kong Special Administrative Region, alternative money transfer agencies are registered as remittance agents or currency exchangers. For transactions with a total value of more than HK$ 20,000, such agencies are obliged to record their details and verify their clients' identity. Failure to do so constitutes violation of the law. Such agencies are required to keep the relevant records for a minimum of six years.

In the Macao Special Administrative Region, all financial institutions are governed by law, and their supervision is the responsibility of the Macao administration. The legal regime for the financial system focuses on preventive measures, including provisions regarding applications to engage in the relevant operations, the qualifications of major shareholders and managers, the risk associated with new ventures and the merging of financial groups. The regulatory regime has been formulated in conformity with international standards and, in particular, the recommendations of the Basel Committee on Banking Supervision.

What preventive controls and surveillance measures are in place to ensure that funds intended for the financing of terrorism are not transferred through charitable, religious or cultural organizations in China (including the Hong Kong and Macao Special Administrative Regions)?

Most charitable, religious and cultural organizations in mainland China are non-profit entities and are governed by law. As the supervisory authority for the banking industry, the People's Bank of China has the statutory power to inspect the bank deposits, settlements and account management, for example, of such organizations and to impose administrative sanctions on them for illegal conduct. When cases of criminal activity are discovered, they can be reported to the judicial organs such as the public security bureaus.

Article 191 of the Criminal Law of the People's Republic of China states that anyone who commits any of the following acts to disguise or conceal the source and nature of profits known to be derived from crimes of terrorist criminal activities and the proceeds arising therefrom, shall be sentenced to up to five years' imprisonment or criminal detention; such sentence shall be accompanied or replaced by a fine in the amount of 5 to 20 per cent of the money laundered, and the illicit profits and the proceeds derived therefrom as a result of the crimes mentioned above shall be confiscated; in serious cases, the sentence shall range from 5 to 10 years' imprisonment and be accompanied by a fine in the amount of 5 to 20 per cent of the money laundered: (i) providing funds accounts; (ii) assisting in the conversion of the property into cash or financial instruments; (iii) assisting in the relocation of the funds through transfers or other means of accounts settlement; (iv) assisting in the remittance of funds abroad; or (v) using other means to disguise or conceal the source and nature of illegal gains obtained through crimes and the proceeds deriving therefrom. Entities committing one of the aforementioned crimes shall be liable to a fine and their executive officers and other staff directly responsible for the crime shall be sentenced to a maximum of five years' imprisonment or criminal detention. In serious cases, the term of imprisonment shall be between 5 and 10 years. The term entities include charitable, religious and cultural organizations.

The Societies Ordinance of the Hong Kong Special Administrative Region stipulates that societies shall be subject to annual review, and that their funds and legal proceeds deriving from activities carried out within the framework of their statutes in accordance with the relevant national provisions are to be used for the operational activities described in their statutes. No distribution of such funds or proceeds among their members is allowed. Societies shall receive donations and funding in conformity with the purposes and areas of operation set out in their statutes. Such donations and funds shall be used in accordance with the time period, manner and legitimate purposes agreed to by their donors and providers. Societies shall report the acceptance and use of donations and funding to the competent authorities in their areas of operation. They shall act in accordance with national financial control regulations and remain under the supervision of the finance authorities; assets attributable to State appropriations or public donations and funding shall be controlled through audit. By 31 March of each year, societies shall submit their annual report on the work of the preceding year to the competent authorities in their areas of operation and, subject to the preliminary approval from the latter by 31 May, to the supervisory agency on registration for annual review.

The relevant government departments in the Hong Kong Special Administrative Region are individually responsible for the registration, regulation and exemption from tax of non-profit or charitable organizations under the Societies Ordinance, the Companies Ordinance and the Inland Revenue Ordinance. The network set up among the various departments provides the basic law-enforcement framework for preventing and investigating any illegal activities carried out by such organizations or preventing them from being used improperly as a channel for providing terrorists with financing. The relevant registers and tax-exemption records contain useful information on the beneficiaries, directors, senior management and corporate finance of such organizations which enable the law-enforcement authorities to investigate any possible illegal activities.

Under the legislation of the Macao Special Administrative Region, all legal entities, including non-profit organizations, are bound by specific principles. The rights enjoyed by such legal entities are limited to those rights and obligations needed or relevant for the attainment of their purposes. The carrying out of any activities that fall outside their stated purposes or objectives can result in their dissolution. If their real purposes are illegitimate or inconsistent with the purposes set out in their codes of conduct or statutes, or if they pursue their purposes through illicit means, the courts may order their extinction.

Subparagraph 2 (a):

The report refers to various laws preventing the supply of weapons to terrorists. Do these also include provisions for licensing the possession of weapons in China (including the Hong Kong and Macao Special Administrative Regions)?

The Law of the People's Republic of China on the Control of Firearms prohibits the possession of weapons by private individuals. Persons such as sportsmen and forest rangers who are required to possess weapons for their work must be thoroughly investigated and given authorization by the appropriate State authorities. Carefully planned and stringent controls including a licensing system are in place for firearms at every phase: manufacture, transport, sale, acquisition and

possession. Under article 130 of the Criminal Law of the People's Republic of China and article 20 and other articles of the Regulations of the People's Republic of China on Administrative Penalties for Public Security, a person is liable to criminal punishment or security administration penalties if he or she is found to be illegally possessing or carrying firearms, ammunition or dangerous items such as explosives, fatal toxic agents or radioactive materials.

In the Hong Kong Special Administrative Region, all persons possessing and dealing in firearms and ammunition are licensed under the Firearms and Ammunition Ordinance, while the Weapons Ordinance requires all martial arts groups or members thereof that hold weapons to so notify to the police.

The Penal Code of Macao establishes as criminal offences, for which it sets out the corresponding penalties, the manufacture, possession and storage of and trade in prohibited weapons or appliances, explosives or radioactive materials.

In the Macao Special Administrative Region, the manufacture, production, import, export, sale, purchase, storage, possession and holding of weapons and ammunition are under strict control. International treaties on firearms, prohibitions on firearms in the Penal Code, Act No. 77/99/M of 8 November 1999 enacting the Regulations on Firearms and Ammunition as well as the laws and regulations governing foreign trade constitute the legal regime for arms regulation in the Macao Special Administrative Region.

Subparagraph 2 (c):

Please outline in detail the specific provisions in China (including the Hong Kong and Macao Special Administrative Regions) to deny safe haven to terrorists and the practical measures available to meet the objectives of subparagraph 2 (c).

Article 5 of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens provides that "aliens in China must abide by Chinese laws and may not endanger the State security of China, harm public interests or disrupt public order". Article 12 of the same Law provides that "aliens who are considered a possible threat to China's State security and public order shall not be permitted to enter China".

In accordance with these two provisions, the authorities of the Chinese Government responsible for the entry and exit of aliens place aliens who are suspected of terrorist activities on the list of persons denied entry into China.

Terrorists are considered to be personae non gratae. They may not be granted entry visas for Hong Kong, nor are they allowed to extend their stay there. The law-enforcement authorities in Hong Kong maintain close contact with each other and actively exchange intelligence with their counterparts overseas in order to closely monitor information concerning terrorists and ensure effective control of the border and immigration. The Government of the Hong Kong Special Administrative Region will implement signed treaties on extradition and mutual legal assistance in accordance with local ordinances and regulations, namely the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance. The first ordinance provides that Hong Kong may surrender terrorists from Hong Kong to a jurisdiction with which a treaty has been concluded, for offences normally committed by terrorists. The second ordinance provides that Hong Kong may

provide assistance to other jurisdictions, while those jurisdictions accepting assistance can make extradition requests. The Hong Kong immigration authorities are entitled to deny terrorists entry into Hong Kong and may, under the relevant articles of the Immigration Ordinance, interrogate suspected terrorists who are entering or leaving Hong Kong. The Chief Executive may issue a removal order or a deportation order to the suspected terrorists according to the relevant provisions of the Immigration Ordinance. In accordance with Section 19 (1) (a) of this Ordinance, a removal order may be made against a person by the Chief Executive, requiring him or her to leave Hong Kong, if it appears to the Chief Executive that that person is an undesirable immigrant who has not been ordinarily resident in Hong Kong for three years or more. Pursuant to Section 20 (1) of this Ordinance, the Chief Executive may make a deportation order against an immigrant (who is not a permanent resident of Hong Kong) if: (a) the immigrant has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than two years; or (b) the Chief Executive deems it to be conducive to the public good. Since terrorists are undesirable persons, they may not be granted entry visas into Hong Kong or allowed any extension of their stay there.

The Macao Special Administrative Region has strict laws regulating immigration and border control. Certain non-local residents may be denied entry, depending on the relevant legal provisions. Border control posts are equipped with computer terminals connected to the Identification Department database, which stores all records relating to certificates issued by the Macao Special Administrative Region. Control over the issuance of identity and travel documents is also strict. The Special Administrative Region has already adopted measures to prevent forgery and falsification of documents, including the alteration of valid documents, and it intends to improve its work in this area. The Macao Special Administrative Region has a strict law regulating entry and border control. The law regulating entry, stay and settlement in the Macao Special Administrative Region contains a safeguard under which certain non-local residents may be denied entry. The grounds for such denial are clearly stipulated in that law and include evidence that the applicant was expelled or sentenced to at least one year's imprisonment or tangible evidence showing that the applicant had committed serious offence(s). These grounds can be invoked to deny terrorists and their supporters entry. A study is currently being undertaken to amend the above legislation with a view to, inter alia, to reinforcing border controls and stipulating additional grounds for denying entry to non-local residents and for deporting them, without prejudice to human rights. Border control posts are equipped with computer terminals connected to the Identification Department database, which stores all records relating to the certificates issued by the Macao Special Administrative Region. Control over the issuance of identity and travel documents is also strict, and has obviously been further strengthened to prevent terrorists from entering the Macao Special Administrative Region. The Special Administrative Region has adopted measures to prevent forgery and falsification of documents, including the alteration of valid documents. Documents of the Macao Special Administrative Region are issued in several stages, with different personnel involved at each stage. Those involved in one stage are not permitted to take part in the procedures at another stage or allowed access to that work area. The Immigration and Identification Departments are currently studying ways of improving their work in this area further.

Subparagraph 2 (d):

The report states in the reply to this subparagraph that the class of offences of financing terrorism is about to be expanded by the Government of the Hong Kong Special Administrative Region to include the provision of support in the Hong Kong Special Administrative Region to terrorist activities overseas. Are there similar provisions in the law in other parts of China?

The Macao Special Administrative Region is studying how to define international terrorism as a criminal offence and the extent to which jurisdiction can be exercised over related matters.

Subparagraph 2 (e):

Please provide a progress report on the counter-terrorism legislation drawn up by the Government of the Hong Kong Special Administrative Region.

As noted above, the Legislative Council of the Hong Kong Special Administrative Region has adopted the United Nations (Anti-Terrorism Measures) Ordinance.

Are the relevant provisions of the Criminal Law of China applicable in all of the following circumstances:

Acts committed outside China by a person who is a citizen of, or habitually resident in, China (whether that person is currently present in China or not);

Acts committed outside China by a foreign national who is currently in China?

With regard to crimes committed by Chinese citizens outside the territory of the People's Republic of China, article 7 of the Criminal Law stipulates that this Law is applicable to citizens of the People's Republic of China who commit crimes specified in this Law outside the territory of the People's Republic of China. However, criminal cases which under this Law carry a maximum punishment of up to three years' imprisonment may be overlooked.

Concerning acts committed outside the territory of the People's Republic of China by foreign nationals residing in China, article 8 of the Criminal Law of the People's Republic of China stipulates that this Law may be applicable to foreigners who commit crimes outside the territory of the People's Republic of China against the People's Republic of China or its citizens, in such cases the Law provides for a minimum punishment of three years' imprisonment, provided they are not punishable according to the local law in the place where the acts were committed.

Subparagraph 2 (g):

Could China please provide the Committee with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists?

The authorities responsible for operations covering "narcotics control, financial tracking and security [and] the border controls preventing the movement of terrorists" are all under the umbrella of the Ministry of Public Security. The centralized guidance, direction and coordination provided by this Ministry ensures smooth, harmonized and prompt cooperation among these authorities.

There are a number of networks connecting law-enforcement agencies in Hong Kong, one such being the Joint Police/Customs Anti-Smuggling Task Force established by the Police Force and the Customs Department with the aim of suppressing smuggling activities, including the transborder movement of terrorists. The Police Force and the Department have also set up a Joint Intelligence Unit and a Joint Financial Intelligence Unit to exchange information and intelligence in the fight against drug trafficking involving terrorists and in the investigation of financial and money-laundering activities. In addition, the law-enforcement agencies hold regular meetings to share the latest information and intelligence on border control.

Subparagraph 3 (c):

Please provide the Committee with a list of relevant bilateral agreements to which China (including the Hong Kong and Macao Special Administrative Regions) is a party.

The Hong Kong Special Administrative Region has concluded bilateral extradition agreements with the following States for the purpose of transferring fugitive offenders: Australia, Canada, India, Indonesia, Malaysia, the Netherlands, New Zealand, the Philippines, Portugal, Singapore, Sri Lanka, the United Kingdom and the United States of America. It has also concluded bilateral agreements on mutual legal assistance in criminal matters with the following States: Australia, Canada, France, Ireland, Italy, New Zealand, the Philippines, Portugal, the Republic of Korea, Switzerland, the United Kingdom and the United States of America.

The Government of the Macao Special Administrative Region concluded a bilateral agreement on mutual legal and judicial assistance with Portugal on 17 January 2001.

Subparagraph 3 (d):

Could China please indicate how it has incorporated into Chinese domestic law that applies to the regions other than the Hong Kong and Macao Special Administrative Regions the requirements of those of the relevant international conventions and protocols relating to terrorism which it has ratified?

Please explain whether the offences set forth in the relevant conventions are extraditable offences under Chinese extradition law and in the bilateral treaties on extradition that China (including the Hong Kong and Macao Special Administrative Regions) has concluded with other countries.

The Fugitive Offenders Ordinance promulgated by the Government of the Hong Kong Special Administrative Region contains, in schedule 1, a list of offences for which fugitive offenders are transferable under multilateral international agreements as well as offences specified in the decisions of international organizations.

Subparagraph 3 (g):

Do the Hong Kong and Macao Special Administrative Regions have any laws on extradition, or is extradition based only on bilateral treaties?

Bilateral extradition agreements concluded by Hong Kong are implemented pursuant to the local Fugitive Offenders Ordinance.

A number of multilateral treaties containing provisions on extradition have seen their scope of application extended to the Macao Special Administrative Region. In addition, in 1999 the Macao Special Administrative Region concluded an agreement with Portugal on the transfer of convicted persons which the central Government confirmed in 2000.

Paragraph 4

Has China addressed any of the concerns expressed in paragraph 4 of the resolution?

China has taken an active part in the international counter-terrorism cooperation by setting up bilateral consultation and cooperation mechanisms with the United States of America, the Russian Federation, the United Kingdom, India and others. China has also actively participated in counter-terrorism cooperation within the framework of the international and regional organizations such as the United Nations, Asia-Pacific Economic Cooperation (APEC), the Regional Forum of the Association of South-East Asian Nations (ASEAN) and the Shanghai Cooperation Organization.

Law-enforcement agencies in Hong Kong keep in close touch with each other at all times and exchange intelligence effectively with their counterparts overseas in order to actively combat international terrorist activities and transnational organized crime. In its effort to combat such crimes, Hong Kong also does its utmost to implement all applicable resolutions adopted by the United Nations Security Council and fulfils its obligations under the relevant international conventions. In addition, Hong Kong has always been an active member of FATF and is currently occupying the Presidency of the Task Force (for the term 2001-2002).

Other matters:

Could China please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution?

The Ministry of Foreign Affairs of the People's Republic of China serves as focal point for the development of international counter-terrorism cooperation in implementation of Security Council resolution 1373 (2001). Authorities involved in the implementation of resolution 1373 (2001) now include the Ministries of National Defence, Public Security, State Security and Finance, as well as the People's Bank, Customs and other relevant legislative and enforcement bodies.